

1 THE HONORABLE ROBERT S. LASNIK
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10 UNITED STATES DISTRICT COURT
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12 JAMES MCDONALD,
13 Plaintiff,
14 v.
15 ONEWEST BANK, FSB, NORTHWEST
16 TRUSTEE SERVICES, INC., MORTGAGE
17 ELECTRONIC REGISTRATION SYSTEMS,
18 INC., INDYMAC BANK FSB, DOES 1-50,
19 Defendants.

No. 2:10-cv-01952-RSL

REPLY IN SUPPORT OF MOTION TO
SUPPLEMENT RECORD IN SUPPORT
OF DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

NOTE ON MOTION CALENDAR:
December 14, 2012

21 Plaintiff's objections regarding the declaration of Christopher Corcoran from Deutsche
22 Bank National Trust Company ("DBNTC"), are unfounded, incorrect, or both. In particular,
23 plaintiff's speculative interpretation of terms in the two exhibits to the Corcoran declaration
24 does not rebut his sworn statement that DBNTC held the original collateral loan file (which
25 contained the original promissory note) from 2007 to 2010, when it sent that file to OneWest
26 Bank, FSB ("OneWest").

REPLY IN SUPPORT OF MOTION TO SUPPLEMENT
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LARKINS VACURA LLP
621 SW Morrison St., Suite 1400
Portland, Oregon 97205
503-222-4424

The Custodial Agreement, Exhibit A to the Corcoran declaration, in no way rebuts—and indeed confirms—Mr. Corcoran’s explanation of DBNTC’s role as custodian, and its obligation to release the loan file to OneWest upon demand, as it did in October 2010. Plaintiff’s mere beliefs about who bought loans from whom are irrelevant, and certainly do not create a dispute of material fact regarding DBNTC’s role as custodian of documents. Likewise, Corcoran’s declaration is entirely consistent with DBNTC’s internal “Complete Loan File Information” document (Exhibit B). Plaintiff’s conjecture about what the terms on that document mean also does not create a dispute of material fact regarding the declaration.

Plaintiff also points to a letter from counsel for DBNTC, which stated, “DBNTC does not have any information pertaining to a Form 1034 or 1036 authorizing documents to be released to OneWest, nor do we have a list of identification numbers associated with the note.” Pl.’s Obj., Ex. B. It is unclear what plaintiff thinks that language means, but in no way does it rebut DBNTC’s explanation that it possessed as custodian the original collateral loan file—including the original promissory note—from 2007 until 2010, when it sent that file to OneWest. Plaintiff also fails to note that in the same letter, counsel for DBNTC explained to plaintiff that DBNTC did act as custodian for the loan at issue in this case.

Mr. Corcoran can be available by phone or videoconference for the evidentiary hearing on January 31, 2013, if the court wishes any further clarification on the issues he addresses in his declaration.

Dated: December 14, 2012.

ROUTH CRABTREE OLSEN, P.S.

s/ Heidi E. Buck Morrison

Heidi E. Buck Morrison, WSBA # 41769
Attorneys for Defendants OneWest Bank, F.S.B.,
Mortgage Electronic Registration Systems, Inc.,
and Northwest Trustee Services, Inc.

1 LARKINS VACURA LLP
2

3 s/ Julie R. Vacura
4 Julie R. Vacura, WSBA # 34588
5 Attorneys for Defendant OneWest Bank, F.S.B.
6 and Mortgage Electronic Registration Systems,
7 Inc.
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REPLY IN SUPPORT OF MOTION TO SUPPLEMENT
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LARKINS VACURA LLP
621 SW Morrison St., Suite 1450
Portland, Oregon 97205
503-222-4424

CERTIFICATE OF SERVICE

I am employed in Multnomah County, State of Oregon. I am over the age of 18 and am not a party to the within action; my business address is 621 SW Morrison St., Suite 1450, Portland, Oregon 97205.

On December 14, 2012, I served the following document(s) described as:

REPLY IN SUPPORT OF MOTION TO SUPPLEMENT RECORD IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

on the party or parties listed on the following page(s) in the following manner(s):

- BY HAND DELIVERY:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by messenger to the street address(es) indicated on the attached service list.
- BY FEDERAL EXPRESS:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by Federal Express to the street address (es) indicated on the attached service list.
- BY FIRST-CLASS MAIL:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be deposited in the United States mail at Portland, Oregon, with first-class postage thereon fully prepaid and addressed to the street address(es) indicated on the attached service list.
- BY FACSIMILE:** For each party, I caused a copy of the document(s) to be sent by facsimile to the facsimile number(s) indicated on the attached service list. If this action is pending in Oregon state court, then printed confirmation of receipt of the facsimile generated by the transmitting machine is attached hereto.
- BY E-MAIL:** For each party, I caused a copy of the document(s) to be sent by electronic mail to the e-mail address(es) indicated on the attached service list. If this action is pending in Oregon state court, then I received confirmation that the e-mail was received.
- BY ECF:** For each party, I caused a copy of the document(s) to be sent by electronic mail via ECF to the e-mail address(es) indicated on the attached service list.

I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct.

/s/ Julie R. Vacura
Julie R. Vacura

Ha Thu Dao
hadaojd@gmail.com
Attorney for Plaintiff